

1 A. Eric Bjorgum (State Bar No. 198392)
2 Marc A. Karish (State Bar No. 205440)
3 KARISH & BJORGUM, PC
4 16 N. Marengo Ave., Suite 307
5 Pasadena, California 91101
6 Telephone: (213) 785-8070
7 Facsimile: (213) 995-5010
8 E-Mail: marc.karish@kb-ip.com

9 Attorneys for Plaintiff
10 S.P.E.P. ACQUISITION CORP.

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

13 S.P.E.P. ACQUISITION CORP., a
14 California corporation,

15 Plaintiff,

16 vs.

17 DOUGLAS TRAILER SUPPLY
18 COMPANY, LLC, a Georgia Limited
19 Liability Company; and DOES 1 – 10,
20 inclusive,

21 Defendants.

Case No. CV13-09237-ODW (JEMx)

APPLICATION FOR IN CAMERA
REVIEW RE MOTION FOR
DEFAULT JUDGMENT AND
SUPPORTING PAPERS


Date: March 17, 2014

Time: 1:30 p.m.

Place: Courtroom 11 (Spring St.)

Judge: Hon. Otis D. Wright II

ORIGINAL

2014 FEB 13 PM 2:40
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES
BY: 

FILED

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PURSUANT TO Local rule 79-5.1, Attorneys for Plaintiff S.P.E.P. Acquisition
3 Corp. hereby apply for an Order requiring that follow documents be reviewed *in*
4 *camera* only, although versions without proprietary information can be filed in a
5 redacted format:

- 6 1. Notice of Motion and Motion for Default Judgment;
- 7 2. Declaration of Larry Mirick in Support of Plaintiff's Motion for
8 Default Judgment;
- 9 3. Declaration of A. Eric Bjorgum in Support of Plaintiff's Motion for
10 Default Judgment;
- 11 4. Declaration of Alphy Clemente in Support of Motion for Default
12 Judgment;
- 13 5. Application for In Camera Review;
- 14 6. Proposed Order re Application for In Camera Review and Proposed
15 Order re Motion for Default Judgment.

16
17 This Application is made because the items identified above contain pricing
18 and sales information that is highly confidential. Plaintiff cannot reveal that
19 information to the public or to Defendant. As the situation presently stands,
20 Defendant has not responded to a cease and desist letter or to the Complaint in this
21 matter and does not appear to be at all trustworthy.

22 This information is highly confidential for two reasons. First, one of the
23 products at issue, the W412, is very important to S.P.E.P. and sells thousands of
24 units per month. (Declaration of Alphy Clemente ("Clemente Decl."), ¶ 4; Mirick
25 Decl. ¶ 7.) Sales were cut nearly in half in the years following the introduction of
26 Defendant's competing product. The Court should provide the maximum possible
27 protection to S.P.E.P. so that it is not further damaged by Defendant's conduct.
28

1 Second, Plaintiff's pricing information is very sensitive because this is a
2 large volume, low cost product. A few cents in either direction are important.
3 (Clemente Decl., ¶ 3.) In fact, Plaintiff has every reason to believe that if
4 Defendant were in possession of Plaintiff's confidential information, it would
5 wrongfully use or disclose such information.

6 Finally, Plaintiff requests that, if the Court refuses to review these
7 documents in camera, the Court return the documents to Plaintiff unfiled. Plaintiff
8 would rather re-file its motion for default judgment with different (and limited)
9 financial support than have these figures made public. Plaintiff will also bring its
10 CEO to the hearing so that he can provide any testimony required by the Court.

11 Indeed, we do not yet know how Defendant will respond to the Motion for
12 Default Judgment. If Defendant responds with its sales information, the Court will
13 have additional information to consider and this evidence of Plaintiff's sales may
14 not be so crucial. However, right now, the most reliable evidence of lost sales
15 comes from Plaintiff's sales and pricing information.

16 Plaintiff has sent correspondence to both the office address (on Madison
17 Avenue North) and home address (on North Chester Ave.) of Defendant. On
18 February 12, Plaintiff received a returned Federal Express package to the office
19 address on Madison Ave. N. in Douglas, Georgia, stating that Douglas Trailer was
20 "not at this address." Plaintiff had used this address for service of process and also
21 for correspondence. Plaintiff's counsel had been assured by sales representatives
22 that this was the correct address. (Bjorgum Decl., ¶ 2.) Nevertheless, Plaintiff had
23 also sent correspondence to the Chester Ave. address in Douglas, Georgia to notify
24 Defendant of the default judgment.

25 Plaintiff will now send a full set of papers for this motion to the address on
26 Chester. Plaintiff has now sent both a letter detailing damages and a copy of the
27 redacted default judgment papers filed with the Court on February 7, 2014.
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Conclusion

For the foregoing reasons, Plaintiff requests that the Motion for Default Judgment be reviewed only in camera in unredacted form. Plaintiff will file a redacted version with the pricing information redacted.

Respectfully submitted,

Dated: February 12, 2014 KARISH & BJORGUM, PC

/s/ A. Eric Bjorgum
A. Eric Bjorgum
Attorneys for Plaintiff
S.P.E.P. ACQUISITION CORP.